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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,761	01/09/2004	William Roy BURKE	05111.0102.DVUS03	1760
22446	7590	06/01/2006	EXAMINER	
ICE MILLER LLP ONE AMERICAN SQUARE, SUITE 3100 INDIANAPOLIS, IN 46282-0200			RAO, G NAGESH	
			ART UNIT	PAPER NUMBER
			1722	

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/707,761	Applicant(s) BURKE, WILLIAM ROY	
	Examiner G. Nagesh Rao	Art Unit 1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 is/are allowed.
- 6) ☒ Claim(s) 20 and 21 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1) A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on has been entered.

Allowable Subject Matter

2) The following is a statement of reasons for the indication of allowable subject matter: Independent claims 1 and 14 as well their corresponding dependent claims refer to an apparatus for producing a gypsum wallboard core. The distinguishing feature in both amended claims that overcome the current prior art put forth from the previous rejection specifically relates to the following, "...at least one secondary inlet having a base connected at one of the lateral edges of the extrusion die, a top and an elongated tube between the top and the base, wherein the base, the top and the elongated tube form a conduit into the extrusion die to allow for the introduction of at least one gypsum slurry additive...". This distinction of language in both claims pertains to where the secondary inlet is in

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relation to the extrusion die. The major piece of prior art Nissel 431 taught a secondary inlet that was in fluid communication with the extrusion die, whereas the claimed invention is specific with the location of the secondary inlet's position with the extrusion die which is different in structure than what is taught by Nissel 431.

Claim Objections

3) Claim 22 is objected to because of the following informalities: It is an allowable subject matter claim but depends from a rejected claim . Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
- 4) Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Phipps (US Patent No. 4,364,722) in view of Miler (US Patent No. 3,393,260) in further view of Edwards (US Patent No. 3,821,868).

Phipps 722 pertains to a die assembly that has adjustable plates with respect to the top, bottom, and side portions that comprise of the rectangular die assembly having a manifold between its inlet and outlet and can be adjusted to a variety of thicknesses and widths (See Figures 1 and 4 Cols 1 14-32, Col 3 Lines 15-68 and Col 4 Lines 1-68). Also note the purpose of this piece of equipment would be inherently used in conjunction with a mixer and extrusion system.

However Phipps 722 does not explicitly denote that and therefore in order to further substantiate this concept Miler 260 displays a typical system that includes a mixer having a discharge end and an extrusion die as seen clearly in Figures 1 and 3.

Therefore it would be obvious at the time of the invention to want to have a mixer such as Miler 260 attached to the extrusion die of Phipps 722 in order to operate its full capability.

However the hypothetical device as taught by Phipps 722 and Miler 260 would suggest various sized dimensions that would be known to use in the die size of the material, given to its industrial state of use as well teaching that the sizes of extruded material although due to the size of the die are a resultant effective variable.

These teachings are further reinforced by the teachings of Edwards 868 as discussed below.

Edwards 868 teaches that it is well known in the gypsum art to have wall board, of drywall, of decorating paneling, or the like; and, in one preferred embodiment of the present invention, that panel is 8 feet high, 4 feet wide, and three-eighths of an inch thick -- and thus has dimensions that are standard in the construction industry satisfying the ratio of width to thickness prescribed in the claim (Col 8 Lines 34-59).

Therefore at the time of the invention it would be obvious to one with ordinary skill in the art to modify the teachings Phipps 722 and Miler 260 with that of Edwards 868 to reinforce the idea that is well known to manufacture material at

those dimensions and that this is seen as a resultant effective variable operating on the apparatus.

Examiner would like to finally point out that the apparatus as claimed by applicant being utilized for gypsum wallboard is a recitation of intended use and does not bear weight to the physical structure of the apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to G. Nagesh Rao whose telephone number is (571) 272-2946. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571)272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GNR


ROBERT DAVIS
PRIMARY EXAMINER
GROUP 1300-17a

5/30/06